

06cv3447 (DRH)

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Thurgood Marshall U.S. Courthouse at Foley Square 40 Centre Street, New York, NY 10007 Telephone: 212-857-8500

MOTION INFORMATION STATEMENT

Docket Number(s): 09-4406-cv

Caption: RxUSA Wholesale, Inc. v. Alcon

Motion for: Change of Caption

Set forth below precise, complete statement of relief sought:

The entity formerly known as Merck & Co., Inc. ("Former Merck"), an appellee in this case, respectfully requests the court to change the caption of this matter to reflect the fact that, effective as of November 4, 2009, Former Merck is now named Merck Sharp & Dohme Corp. This name change results from Former Merck's merger with a Schering Plough Corporation subsidiary. In connection with this merger, Former Merck has changed its name to Merck Sharp & Dohme Corp. and has become a wholly-owned subsidiary of the entity formerly known as Schering Plough Corporation, which has been renamed Merck & Co., Inc.

MOVING PARTY: Merck & Co., Inc.

☐ Plaintiff ☐ Defendant
☐ Appellant/Petitioner ☒ Appellee/Respondent

MOVING ATTORNEY:

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OPPOSING PARTY: RxUSA Wholesale, Inc.

OPPOSING ATTORNEY:

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 Levine & Associates, P.S. DISTRICT COURT E.D.N.Y.
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LONG ISLAND OFFICE

Court/Judge/Agency appealed from: U.S. District Court for the Eastern District of New York (Judge Hurley)

Please check appropriate boxes:

Has consent of opposing counsel:

A. been sought? ☒ Yes ☐ No
 B. been obtained? ☒ Yes ☐ No

Has service been effected? ☒ Yes ☐ No
 [Attach proof of service]

Is oral argument requested? ☐ Yes ☒ No
 (requests for oral argument will not necessarily be granted)

Has argument date of appeal been set? ☐ Yes ☒ No
 If yes, enter date: _____

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND INJUNCTIONS PENDING APPEAL

Has request for relief been made below? ☐ Yes ☐ No

Has this relief been previously sought
 in this Court? ☐ Yes ☐ No

Requested return date and explanation of emergency: _____

Signature of Moving Attorney:

Richard S. Goldstein

Date: December 2, 2009

ORDER

Before: Debra Ann Livingston, Circuit Judge

IT IS HEREBY ORDERED that the motion by Appellee Merck & Co., Inc. to amend the caption is GRANTED.
 The party Merck & Co., Inc. is replaced by Merck Sharp & Dohme Corp.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk

by

Joy Fallik
 Fallik, Administrative Attorney

Date

A TRUE COPY

Catherine O'Hagan Wolfe, Clerk

by [Signature]
 DEPUTY CLERK

CERTIFIED:

DEC 07 2009

